

1 5/18/2023 - Monthly Meeting

2 STATE OF NEW YORK

3 PUBLIC SERVICE COMMISSION

4 MONTHLY MEETING

5  
6 Thursday, May 18, 2023

7 10:34 a.m. until 12:02 p.m.

8 ESP, Building 3, 19th Floor Boardroom

9 Albany, New York

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13 COMMISSIONERS:

14 RORY M. CHRISTIAN, Chair

15 DIANE X. BURMAN

16 TRACEY A. EDWARDS

17 JAMES S. ALESI

18 JOHN B. MAGGIORE

19 DAVID J. VALESKY

20 JOHN B. HOWARD

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2 (The meeting commenced at 10:34  
3 a.m.)

4 CHAIR CHRISTIAN: Good morning,  
5 everyone. I call this session of the Public  
6 Service Commission to order. Madam Secretary,  
7 are there any changes to the final agenda?

8 SECRETARY PHILLIPS: Yes, good  
9 morning. There are changes to -- there's one  
10 change to the consent agenda. Item number 265 in  
11 case 21-M-0238 is pulled.

12 CHAIR CHRISTIAN: Thank you very  
13 much. Okay. With that, I will now conduct a  
14 roll call of the Commissioners. When I call your  
15 name, please confirm that you are with us today.  
16 Commissioner Diane Burman.

17 COMMISSIONER BURMAN: Present.

18 CHAIR CHRISTIAN: Commissioner  
19 James Alesi.

20 COMMISSIONER ALESI: Here.

21 CHAIR CHRISTIAN: Commissioner  
22 Tracey Edwards.

23 COMMISSIONER EDWARDS: I am here.

24 CHAIR CHRISTIAN: Thank you.  
25 Commissioner John Howard.

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2 COMMISSIONER HOWARD: Here.

3 CHAIR CHRISTIAN: Commissioner  
4 David Valesky.

5 COMMISSIONER VALESKY: Here.

6 CHAIR CHRISTIAN: Commissioner John  
7 Maggiore.

8 COMMISSIONER MAGGIORE: Here.

9 CHAIR CHRISTIAN: All right. We  
10 have a quorum. Thank you everyone. We'll move  
11 to the regular agenda.

12 Our first item for discussion,  
13 item 301, case 15-E-0302 as it relates to  
14 initiating process regarding the zero emissions  
15 target. It'll be presented today by Justin  
16 Gundlach. Robert Haberman, Elizabeth Grisaru,  
17 and Marco Padula are available for questions.  
18 Justin, please begin.

19 MR. GUNDLACH: Thank you. Good  
20 morning, Chair and Commissioners. Yeah, my name  
21 is Justin Gundlach, I'm a Senior Advisor for  
22 Policy Implementation at the Department of Public  
23 Service.

24 Item 301 relates to the need to  
25 identify and deploy zero emissions dispatchable

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2           resources to meet the Climate Leadership and  
3           Community Protection Act Requirement that the  
4           State's electric grid be zero emissions by 2040.  
5           The C.L.C.P.A. directs that the Commission  
6           establish a program to achieve two basic targets  
7           in the electric sector.  First, that by 2030, at  
8           least 70 percent of electric load is served by  
9           renewable energy, which is the 70 by 30 target.  
10          And second, that by 2040, there are zero  
11          emissions associated with electrical demand in  
12          the State; the zero emissions by 2040 target.

13                               Following an enactment of the  
14          C.L.C.P.A. at its October, 2020 session, the  
15          Commission issued an order adopting modifications  
16          to the Clean Energy Standard.  That order was  
17          meant to align the existing clean energy standard  
18          with these electricity sector targets.

19                               The pathway established by the  
20          Clean Energy Standards Modification Order focuses  
21          on options for procuring sufficient renewable  
22          energy resources to hit both targets.  As  
23          explained in today's proposed order, several  
24          studies indicate that commercially available  
25          renewable and energy storage resources alone may

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2           not satisfy electric -- electric system  
3           reliability needs as electricity generation comes  
4           into compliance with the zero by 2040 target.  
5           These studies suggest that a gap will emerge  
6           between capabilities of available clean energy  
7           technologies and system reliability standards.

8                   The Independent Power Producers of  
9           New York, the New York State Building and  
10          Construction Trades Council, and the New York  
11          State A.F.L.-C.I.O. also raised an issue about  
12          this gap in a petition filed in the Clean Energy  
13          Standard proceeding in August of 2021.

14                   The proposed order acknowledges  
15          issues raised in that petition and initiates a  
16          Commission-driven process to identify  
17          technologies that can close the gap between the  
18          capabilities of available renewable and energy  
19          storage resources and system reliability needs.

20                   As a first step, rather than  
21          adopting a new Clean Energy standard tier as  
22          requested in that petition, the proposed order  
23          seeks input from stakeholders on options for  
24          addressing the gap. It poses a series of  
25          questions to elicit input for the Commission to

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2     consider, starting with how to define zero  
3     emissions.

4                   This order also directs department  
5     staff, in consultation with NYSERDA to convene a  
6     technical conference to further examine the  
7     issues identified in those questions.

8                   That concludes my summary. I and  
9     the others here welcome your questions.

10                  CHAIR CHRISTIAN: Thank you,  
11     Justin. So, as you point out, when the  
12     Commission first established a Clean Energy  
13     Standard, at the time we established an approach  
14     and a management structure aligned with meeting  
15     the energy goals at that time. And since then,  
16     we've made several adjustments to those goals to  
17     align them with the C.L.C.P.A. targets. And this  
18     order is very much aligned with that same purpose  
19     as you -- the previous order as you noted.

20                  Now, given the significance of the  
21     work ahead of us in identifying the technologies,  
22     their applications, their treatments, and other  
23     factors I think it's helpful and important that  
24     we're beginning this process the way we are,  
25     actively engaging and soliciting feedback from

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2           stakeholders, and the effort to figure out  
3           exactly how best to take actions going forward,  
4           either through the development of new  
5           regulations, new requirements, or modification of  
6           existing ones.

7                   So I -- I see this as important.  
8           If we're successful, this will give us the tools  
9           to address many of the emerging issues that we're  
10          seeing and help us hit our various reliability  
11          needs and long-term goals. So thank you for  
12          putting this together. And with that, I'll go to  
13          Commissioner Burman for comments.

14                   COMMISSIONER BURMAN: Thank you.  
15          Thank you so much. So I -- I look at this and I  
16          do have some comments and perhaps some thoughts  
17          that if -- if the staff wants to elaborate on  
18          after I share, that's fine.

19                   I do want to note, that for me  
20          from a process perspective, the agenda only had  
21          the generic case number proceeding and, you know,  
22          It's sort of been on record as believing that we  
23          should be more transparent, so especially when we  
24          have a full docket with a lot of different things  
25          in there so that folks know what specifically we

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2           may be talking about.  In this case, it's a  
3           little more complicated because we are talking  
4           about the petition that was filed August 2021,  
5           but we're not actually deciding the petition,  
6           which I -- I do have some concerns on.

7                   For me, it's also going back and  
8           looking sort of at the history and like how we  
9           got here today.  So obviously, August 1st, 2016,  
10          I was a Commissioner and we voted for, actually  
11          concurred at the time on the C.E.S., Clean Energy  
12          Standard which also established the ZECs.

13                   And looking at that, we then went  
14          shortly -- three years later and there was a lot  
15          of process in between with the Clean Energy  
16          Standard and what we were doing with that.  And,  
17          you know, that order established under the R.E.S.  
18          tier one and tier two, and then tier three for  
19          the ZECs.

20                   And then we had in 2019, the  
21          Climate Leadership and Community Protection Act,  
22          which really is sort of the -- the blueprint that  
23          we're working off of now.  And there obviously in  
24          between that the last three years, just like in  
25          2016 after the C.E.S. order, there was a lot of

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2           activity on what it would mean to get ready for  
3           implementation of the Climate Leadership and  
4           Community Protection Act.

5                   And in fact, in 2020 the State  
6           Energy Plan, which had been adopted in 2015, was  
7           amended to include the aspects of the C.L.C.P.A.  
8           in that. And so that's sort of incorporated in  
9           there. And so if you go by that timeline, then  
10          the next State Energy Plan should be 2023, 2024.

11                   And so, the C.L.C.P.A. actually  
12          looked at, once you had a final scoping plan, the  
13          State -- the State Energy Planning Board would  
14          actually look at that final scoping plan and  
15          determine what to do. So in fact, it sort of  
16          actually aligned well to update the State Energy  
17          Plan with all of -- that would -- the details  
18          that would go with that as well as including  
19          whatever may come from the C.L.C.P.A., especially  
20          because the 2015 plan has the amendment from 2019  
21          for the C.L.C.P.A..

22                   After that, the -- on October 15th  
23          of 2020, the Clean Energy Standard was modified  
24          in -- in order. And during that modification, I  
25          actually dissented and one of the things that I

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2           had focused on was -- and again, when we modified  
3           it in -- in Tier One back in April 2023, but I  
4           dissented in October 2020 for a number of  
5           reasons. But one of the reasons that I focused  
6           on was that, and, and expressed at the time, was  
7           that I felt that we had -- we had gone into a  
8           tortured exercise of trying to fit favored  
9           technologies in the order and exclude unfavored  
10          technologies.

11                                 And I -- I said then that we -- I  
12          felt, felt that we should look more holistically  
13          to what works for reliability, resiliency, and  
14          pairing technologies that might help us together,  
15          even if we didn't see them as, you know, 100  
16          percent pure. But that we may need to look at  
17          what that looked like to -- to meet our goals.

18                                 And I, I've always sort of focused  
19          on that. I think that our State energy policies,  
20          as we try to meet them, we need to be open to,  
21          you know, evolving and pivoting as needed. And  
22          also that ensuring that we don't lose credibility  
23          and what -- what the things that we can lose  
24          credibility are, you know, credibility, we'll  
25          lose credibility if we fail on reliability, we'll

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2           lose credibility if we fail on costs, we'll lose  
3           credibility if we fail on safety, we'll lose  
4           credibility if, even if we are well-intended, we  
5           are not making progress, but perhaps going  
6           backwards because we are not properly planning  
7           for the transition.  And so when plants retire if  
8           there is now a need to address that, what that  
9           looks like and so all of these things kind of,  
10          sort of, build upon itself.

11                   So back in -- in 2020 when we  
12          decided the modification order, which I dissented  
13          on, this is kind of where I was coming from and  
14          sort of consistent throughout.  And that order  
15          was about procuring sufficient renewable energy  
16          resources to meet the C.L.C.P.A. requirements.  
17          And -- and I think sort of now, you know, kind of  
18          a lot of the words that I said or my concerns  
19          back then are sort of coming into fruition and --  
20          and that's something that I think we have to take  
21          care of and recognize, which is part of what we  
22          have today.

23                   In August of 2020, there was a  
24          petition submitted by a number of folks,  
25          including IPPNY and Labor on zero-emissions

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2           petition.  And -- and that petition you know,  
3           sought to do a couple of things.  It sought to  
4           establish a new CES tier.  It sought to  
5           establish, you know, the definition of zero-  
6           emissions technologies.  It sought to look at,  
7           you know, labor and workforce development issues  
8           as well as other things, you know, around that to  
9           support labor.  And it also sought funding,  
10          primarily rate-payer funding for the  
11          establishment of a new tier.  And that petition  
12          was SAPA'd and there were comments that came in  
13          from a number of folks kind of looking at it.

14                   For me, a lot of them said sort  
15          of, even if they came at it differently, the  
16          focus was either, yes, we totally support, you  
17          know, labor and, and others sort of in -- in --  
18          in there.  And then it was, we might support, but  
19          it's premature, or we -- it's premature because  
20          we think the definition of zero-emissions  
21          technologies should be, you know, very, very  
22          narrow.

23                   And then there were others like  
24          M.I. and Nucor who were concerned about what this  
25          meant as we were still working through other

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2           things.  And also that they were looking at it  
3           from the perspective of, listen, we -- this, all  
4           of this, all the C.L.C.P.A. is costing, it's a  
5           lot of cost here.  And, you know, our folks can't  
6           bear these costs.  And so we have to be mindful  
7           of what we're doing and not just sort of rush to,  
8           you know, again meet the state energy policies in  
9           a way that we are not being thoughtful.

10                                 And so, they were sort of  
11           advocating for, you know, some pilots or sort of  
12           four corners, you know, cost caps and -- and kind  
13           of talking a little bit and having some  
14           stakeholder outreach on that.

15                                 The joint utilities and the New  
16           York I.S.O. were pretty much aligned on, we hear  
17           you.  New technologies are necessary, and but you  
18           know, we -- we -- we really need stakeholder  
19           confidence.  We really need for all of us to kind  
20           of work together and -- and do that.  So the  
21           petition sat fairly dormant despite folks saying  
22           hey, what's going on?  There's been some activity  
23           over in the legislature on -- on bills that may  
24           align or may not align with it.

25                                 And so we're now here in opening

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2           up a proceeding that is going to say, yup, but  
3           not sure. Why do I say yup, but not sure?  
4           Because we're not actually deciding the petition.  
5           Implicitly, you know, as I read it, the petition  
6           is subsumed in the order in a way that is not  
7           clear. We're pulling from it to establish why we  
8           need to open the proceeding.

9                   I -- I -- I support that in that  
10           it is important; we are late to the game, right?  
11           If we go back to my comments back in 2020, you  
12           know, we need to -- we need to kind of look at  
13           this, right?

14                   We are -- we -- we've -- we've had  
15           some regulatory lag in deciding what to do. It  
16           is our responsibility under the C.L.C.P.A. to  
17           define zero-emissions technology. It is our  
18           responsibility to look at the ramifications of  
19           our clean energy plans as it may impact  
20           reliability, as it may impact costs, and as it  
21           may impact safety. And as -- it is -- is -- is  
22           helpful for us to, you know, establish the  
23           necessary frameworks to achieve our clean energy  
24           policies in a coherent and prudent way.

25                   The -- the concern I have is that

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2           we -- we have always known, and I -- I -- I think  
3           it's undisputed that we need to invest in new  
4           technologies.  We must help to identify and  
5           develop solutions for dispatchable technologies.  
6           And they have to be called upon as needed, and  
7           they are necessary to balance supply and demand  
8           as electricity demand grows.

9                   But we also must be mindful that  
10           as we have to be open to new and developing  
11           technologies, the challenges are real.  And we  
12           have to be mindful of the role that existing base  
13           load generation will play in the energy  
14           transition, particularly with reliability and  
15           affordability and -- and that's key.

16                   Now, some of the -- the folks who  
17           don't want the petition decided, N.R.D.C. comes  
18           to mind, but there are others who are focused on  
19           the fact that sort of anti the technologies that  
20           are perhaps needing to be added.  Biofuels,  
21           renewable natural gas, hydrogen and -- and other  
22           things, right?

23                   And so, their focus is that the  
24           true zero-emissions technologies like long-  
25           duration energy storage are not yet, and again,

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2 this is back in 2021, 2022 when they submitted  
3 their comments, are not yet sufficient enough,  
4 you know, working through it. So don't give up  
5 on them. It's kind of what they're saying.

6 I don't think having a more  
7 inclusive definition of new technologies is  
8 giving up on. I think that it is actually a  
9 recognition that we need all the tools in the  
10 toolkit to help us achieve our clean energy  
11 goals. And to do that, we need to not be so  
12 focused on picking winners and losers in that we  
13 are actually going to chill the opportunities  
14 that may be there. And so for us it's about  
15 trying, I think, to be more embracive of that and  
16 to ensure that we are not derailing our clean  
17 energy policies.

18 In the order we actually, I think  
19 try to directly address by referencing studies  
20 from the I.S.O. and others in -- and -- and the -  
21 - the 2022 New York I.S.O. reliability assessment  
22 in that we recognize that we are not going to get  
23 where we need to be only on renewable energy.  
24 That when we look at this we need to be  
25 recognizing that we are reaching that tipping

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2           point, my words, not the order's words, we are  
3           reaching that tipping point where we are mindful,  
4           more than we've ever been, on the reliability  
5           issues and challenges there, and the daunting  
6           task of achieving our clean energy policies. And  
7           not in the order, but also and doing that from a  
8           cost-effective perspective, which is important.

9                   So we then sort of say, okay,  
10          based on these studies, based on the New York  
11          I.S.O. reliability assessment, which I just sort  
12          of also put in asterisk at the end of June, the  
13          New York I.S.O. will be issuing, it's what I -- I  
14          think is a -- is a signature must-read on power  
15          trends report that will also help to give us some  
16          flavor on -- on where we're going and -- and --  
17          and what we may need to do.

18                   I think it's interesting to note  
19          that the New York I.S.O. used to do a reliability  
20          study every year. They have also recognized,  
21          rightfully so that the changing landscape is so  
22          fast now that they're doing that on a quarterly  
23          basis, they're extending out even some of the  
24          things that they would do statutorily in other  
25          things from a study perspective on -- that may

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2            impact what they're doing to help inform and give  
3            us their best technical information and advice.

4                    And so, they are doing this  
5            quarterly reliability study, and then it looks  
6            out every five years.  So, you know, that is  
7            really helpful because it also is showing that  
8            what is normal regulatory lag has to even pick up  
9            the pace even more, because we can't -- some of  
10           our studies, we have to keep continually  
11           updating, and looking at, and refining because  
12           that situational awareness is happening so much  
13           more faster, right?  We're -- we're losing that  
14           if we don't keep it up.  There's so many things  
15           that are hitting us, and -- and that is -- is  
16           important.

17                   We, so we go on, so we say, you  
18           know, thank you for this petition.  We're going  
19           to -- we're going to take -- we're going to take  
20           -- we're going to take some good -- good stuff  
21           from this and we're going to now have this  
22           technical conference, and here's a bunch of  
23           questions that we're going to ask you to think  
24           about as we move forward with this technical  
25           conference; that's helpful.

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2 I think some folks looking at the  
3 questions though, may say these are really open-  
4 ended questions. Almost like if your kid's  
5 applying for college application, you know, very  
6 open-ended, you can answer it in many different  
7 ways. And that's good, I think, but I worry what  
8 that means from regulatory certainty.

9 So my first question is, how do we  
10 help folks feel comfortable in hitting the mark,  
11 in giving us information? And then what's the  
12 parameters? So a lot of people feel like, I  
13 don't know why I bother, this is -- you know, I'm  
14 in somebody's head right now, not mine, I don't  
15 know why I bother submitting comments because  
16 they never -- I never know if they're actually  
17 going to read them. I never know if they're  
18 actually going to look at them, and if they do,  
19 it's like two years at best, that they get to  
20 them. And my -- my comments may be stale, they  
21 may have already been addressed either for me or  
22 against me in another docket, they may actually  
23 be in a third, fourth, fifth, or sixth docket.  
24 So what do I do here?

25 So how would you answer folks who

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2 say that and what this all means?

3 MR. ROSENTHAL: I think that the -  
4 - the Commission and D.P.S. staff does a  
5 phenomenal job in making -- we have a platform  
6 upon which to review all public comments. It's a  
7 publicly-available platform. I'm not sure that  
8 any other agency of the state has such a  
9 platform. And we, as in this order, have  
10 summarized every single one of the public  
11 comments, and we addressed each of them. So I  
12 think that this Commission and the department  
13 does a great job of doing that.

14 COMMISSIONER BURMAN: Okay. So  
15 thank you for that. I'm not sure that answers my  
16 question, but I'm not saying anyone doesn't do a  
17 good job. I'm really trying to establish  
18 regulatory certainty in the process. So for  
19 example, we do not decide here that we are voting  
20 for or against a new C.E.S. tier, that we're  
21 silent on that. We do not decide the labor  
22 issues, we do not decide the rate-payer funding  
23 issues, we do not decide the definition of zero  
24 emissions. However, we expressly say we do have  
25 the authority to define zero-emission

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2 technologies. We are looking at that and we are  
3 going to make a decision.

4 So the question becomes, let's say  
5 we get comments that come in and say no, C.E.S.  
6 new tier, yes, C.E.S. tier. When it comes back  
7 to us, is then that on our plate where we decide  
8 yes, C.E.S. tier, no C.E.S. tier, or for  
9 regulatory certainty, we say we recognize that  
10 this is an option and we are going to now have a  
11 new proceeding with hopefully, a case number  
12 that's not the generic case number so people can  
13 track it easier, including me, and we SAPA that  
14 perhaps with, you know, a staff white paper,  
15 perhaps not.

16 How does it look from a regulatory  
17 certainty? Now that's just one question, we  
18 could get an answer to a question that says I  
19 don't care whether you do a C.E.S. tier or not, I  
20 actually think the answer is X, Y, and Z.  
21 Totally new, totally different, another option.

22 Do we say in the same order, yes,  
23 no C.E.S. tier. That's a new thing that goes  
24 somewhere else. You got to move -- make a  
25 petition. I'm just trying to honestly understand

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2           what the parameters are, because a lot of -- one  
3           of the questions is about how should we be  
4           aligned as a State with others? Now that could  
5           be other state agencies, it could be other  
6           States, it could be the federal government, it  
7           could be internationally, it could be a whole  
8           host of things, right?

9                   If things come in there, for me,  
10           all of that information, there needs to be some  
11           type of filter that says, okay, this, this great  
12           thought, this -- the Commission is determining,  
13           okay, that's an energy storage issue that's over  
14           here on the pending docket. You know, this is  
15           something that goes into the gas planning.  
16           Something that filters through so that we don't  
17           wind up having the super-regulatory proceeding  
18           that goes beyond what I think is what we're  
19           trying to address is definition of zero-emissions  
20           technologies, what that looks like, how that may  
21           impact what we're doing. That's kind of the  
22           question I have. I guess that's my second  
23           question.

24                   MR. ROSENTHAL: I think all, all  
25           of the issues that you raised, as you noted,

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2           they're in the draft order before you.  The  
3           question regarding whether or not there should be  
4           a new C.E.S. tier, the ideas of perhaps aligning  
5           with other State agencies and even other states  
6           or the federal government and then the obvious  
7           point of -- of the need to define the term zero  
8           emissions and to determine eligibility of the  
9           types of technologies that, you know, would meet  
10          that definition.

11                         So all of those are -- are issues,  
12          you know, that the petition and this order have  
13          clearly triggered, and they're all very important  
14          issues that are going to be dealt with at first  
15          at a technical conference after which, you know,  
16          we will obviously seek advice and we will provide  
17          recommendations to this Commission regarding  
18          next steps, regarding all of those issues.

19                                 COMMISSIONER BURMAN:  Okay.  I do  
20          just want to make it very clear to folks, and  
21          thank you for that, Bob.  I do want to make it  
22          very clear to folks I think it's very important  
23          that we think about those -- if we're trying to  
24          engage people, we have to also think about this  
25          from a regulatory certainty perspective and look

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2           at what it is that fits in this bucket from the  
3           four corners.  Because one, I think it's going to  
4           be if we -- if we just open it to so much, it's  
5           going to be a nightmare for everyone to deal  
6           with.  And I don't think it's -- I think that  
7           part of what should come is what the four corners  
8           of this is.

9                                   And so, we, I -- I -- I guess I'll  
10          ask the question which -- which is, so after we  
11          decide this draft order and we op -- and assuming  
12          it's voted in favor to open the docket, so we  
13          open this draft order, we say we're going to have  
14          a technical conference, we then have the  
15          technical conference, oh, and with this order, it  
16          lays out, I think, 14 questions, people can add  
17          on other questions as well.  We have the  
18          technical conference, we open it up to a number  
19          of folks, and then it comes back for something to  
20          us, right?  What does it mean for the petition  
21          that was filed August, 2021?

22                                   MR. ROSENTHAL:  So you're -- I  
23          think you're referencing just the concept of  
24          regulatory certainty.  So this Commission doesn't  
25          get a ton of -- of petitions.  Certainly, this

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2           was one, I can think of others. There is, you  
3           know, obviously, just I think that this  
4           Commission is very transparent and tries to deal  
5           with issues as they come. And so we strongly,  
6           you know, want to maintain the ability of parties  
7           to file petitions and, and want them to file  
8           petitions.

9                   With that said, just so we  
10           understand what the legal requirements are, there  
11           are no requirements for the Com -- the Commission  
12           to address in an informal way or informal way, a  
13           petition that's filed by an outside party, nor is  
14           there -- you know, and even if we do, even if the  
15           Commission decides to take one up, there's no  
16           sort of timeframe that's specified there.

17                   So -- so I think as far as, you  
18           know, regulatory certainty goes, and I think  
19           outside parties know this, staff is the prim --  
20           primary mechanism through which you know, white  
21           papers and proposals are filed with -- with the  
22           Commission for consideration.

23                   Outside petitions, although  
24           they're extremely important and may in fact, you  
25           know, provide an imp -- impetus for white papers

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2           from staff are not something that, you know, that  
3           the Commission has ever determined as has to be  
4           taken up.

5                                COMMISSIONER BURMAN:   Thank you.  
6           I'm going to give you my perspective having been  
7           a staffer, and having been an outside observer,  
8           and now a Commissioner.  I -- I think that there  
9           is a -- a process management that happens with  
10          the petitions that come in.  Other things come  
11          in, but let's just focus on petitions, request  
12          for declaratory rulings, and a whole host of  
13          things, right?  And there is -- there is a need,  
14          as I see it, for some regulatory certainty on  
15          what we are doing with petitions that come in.

16                               Now, we often SAPA the petitions.  
17          Sometimes we don't SAPA them the declaratory  
18          rule.  Assuming the ones that we have to SAPA, we  
19          SAPA.  I do feel that we also -- we also are  
20          needing to look at what it looks like from a  
21          timeline, right?  What is the average timeline  
22          for when a petition comes in to when we decide  
23          it; whether it is a petition for rehearing,  
24          whether it's a, you know, first-impression  
25          petition that comes in.

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2 And I think that it -- it is sort  
3 of docket management in terms of looking at it.  
4 Look, when you're in the court system, and I  
5 worked in the court system, you know, as a senior  
6 court attorney, you had -- you know, you were  
7 supposed to help to move the dockets and -- and  
8 clear off the backlog of it. We have a backlog  
9 with some petitions, right, that -- that are  
10 existing beyond, you know, six months, beyond a  
11 year, beyond two years. And, and that's not  
12 healthy when we want people to see how we are  
13 moving.

14 Now, some petitions may just be,  
15 look, we got your petition, we don't believe this  
16 is something that we're going to decide at this,  
17 or this petition really fits in X bucket. And  
18 that's where it is, or we got your petition,  
19 we're working through it and, you know, we hear  
20 you. And we expect to reach a decision, you  
21 know, within the year, within two years, or  
22 never, right?

23 I -- I -- I think that that might  
24 actually be helpful and healthy for people or to  
25 say we are about to decide that petition that you

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2           submitted comments in five years ago. Refresh  
3           your comments, if you wish, and give them time.  
4           So I look at this now and the lack of clarity for  
5           me is, the August 2021 petition still exists. It  
6           is -- it -- it goes dormant I guess, because  
7           we're focused over here on this new technical  
8           conference, et cetera. And we pulled some of it,  
9           but not all of it.

10                                So folks should be thinking about  
11           what that looks like as they move forward in the  
12           technical conference, because we have not  
13           determined the petition is granted in part,  
14           denied in part, not decided in part, whatever it  
15           is. It -- it -- it -- it -- I have my opinion on  
16           what it means on the petition implicitly, but we  
17           actually have not as a body actually voted  
18           on -- we're not actually voting on that petition,  
19           we're just pulling parts of it out.

20                                And I think that that's -- that  
21           lack of regulatory certainty has tripped us up  
22           before, it has tripped up parties before where  
23           they thought they were deciding something over  
24           here and then all of a sudden, the dormant, the  
25           dormant proceeding came back to life and we

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2           decided it over there. Or they got told in the  
3           thing that we were working on, by the way, we're  
4           -- we're deciding this, but we're not deciding  
5           that because you really should be focused on it,  
6           on that dormant proceeding over there because  
7           that's where we may or may not decide it.

8                   I raised this not as criticism. I  
9           raise it because I believe that it is important  
10          for us to openly address the elephants in the  
11          room that people talk about. And that to help us  
12          in a process perspective is exactly why we, the  
13          majority have a C.L.C.P.A. tracker to help us  
14          with all of this. So this new generic proceeding  
15          actually falls within the new bucket of something  
16          for us to track. But it's not just about  
17          tracking for tracking sake of, you know, these  
18          are the, you know, 20 best top 10 things we've  
19          done, you know, on C.L.C.P.A., but it's all, it's  
20          to help people from a process perspective so that  
21          they can then be substantively informed and  
22          inform us and give us information.

23                   So that's just my process, sort of  
24          focus. The other thing that I do have a question  
25          on is, in here when we're doing the technical

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2           conference, we say that we are doing it in  
3           consultation with NYSERDA, and I'd like to  
4           understand that. Why are we including NYSERDA in  
5           this technical conference in consultation?

6                   I guess first threshold is, are  
7           they aware that they're going to be doing this  
8           technical conference with us? The second really  
9           is why do we need NYSERDA to be -- they can be a  
10          participant in the technical conference, why do  
11          they need to be in -- in consultation doing this  
12          technical conference with us, as -- as -- as sort  
13          of working with staff, with our staff?

14                   MR. GUNDLACH: Commissioner, we're  
15          going to be drawing on NYSERDA'S capacity in a  
16          couple different respects and --

17                   COMMISSIONER BURMAN: And Justin,  
18          I think it's helpful if you speak, don't be  
19          afraid to shout. So speak up.

20                   MR. GUNDLACH: I'll try to get  
21          between what I was doing and shouting.

22                   DPS will run the technical  
23          conference. The department will run the  
24          conference. NYSERDA will be extremely helpful  
25          because they have capabilities and capacity that

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2           will be additional to what we can bring to bear,  
3           and they also have resources.  Among other  
4           things, the resources that have informed the  
5           integration analysis that they did pursuant to  
6           the C.L.C.P.A. that we're definitely going to be  
7           drawing on regardless.

8                   To your point about whether or not  
9           they ought to merely be a participant or help to  
10          organize and orchestrate the conference, I think  
11          that's simply a -- a practicality.  I think  
12          they'll be very helpful and they will not be  
13          driving.

14                   COMMISSIONER BURMAN:  So I  
15          understand that our staff will be leading, I'm  
16          going to give you my, my impression.  I think we  
17          need to be clearer on the lines of responsibility  
18          between our staff and NYSERDA.  I don't see the  
19          nexus in the need for this to be a joint, even if  
20          we lead, technical conference with NYSERDA.  
21          Fully want NYSERDA to participate, think that's  
22          important.  Think to the extent that we need some  
23          of their integration analysis, we could -- we  
24          could ask for that.  It's actually not mentioned  
25          in the order that it just says in consultation

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2 with NYSERDA.

3 The reason I feel strongly about  
4 this is that we do oversee NYSERDA. We have a  
5 lot of things that we need to look at. And I  
6 think the lines get blurry when we utilize  
7 NYSERDA in con -- in -- with our staff in a way  
8 that bleeds in that you can't tell one from the  
9 other, even if one is the lead or not. And at  
10 times, I think it becomes challenging for that.

11 Here, I don't see it. Maybe if we  
12 were looking at, for example, again, it's just  
13 something for us to think about, maybe if we were  
14 looking at, you know, something that NYSERDA  
15 would then have to do an R.F.P. on -- on, maybe  
16 there's a reason for having them in consultation.  
17 Even that, we might have to also look at what  
18 that looks like in terms of cross -- crossing all  
19 of us together, right? Cross pollination. Not  
20 sure that this is healthy.

21 I also think, to the extent that  
22 we are -- are doing it because they have the  
23 resources, they have the capacity. I bristle at  
24 that. We need to then be strong in saying  
25 this -- these are the resources that we as an

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2           agency need, as a Commission needs, and we should  
3           not be beholden to NYSERDA to be providing us  
4           with the capacity and the resources.  It's not  
5           healthy.  It's not healthy for the agency, and  
6           it's not healthy for the Commission.

7                    You don't have to answer that.  
8           I'm just giving you my really unvarnished  
9           opinion.  And so it's too easy for us to get in  
10          the habit of saying well, in consultation with,  
11          because we've always done that.  Oh, we did it,  
12          and we can point to a bunch of different orders.

13                   I generally raise concerns about  
14          this, but I'm really zoned in on this because I  
15          don't see the nexus at all.  It was a, you know,  
16          sort of thrown in there and it concerns me.  
17          Plus, NYSERDA shouldn't know what we're doing in  
18          -- in this capacity until, you know, they're sort  
19          of brought into the umbrella here.  And so for  
20          me, it's something that sort of stands out.  So I  
21          -- I, you know I guess I feel strongly.

22                    I am supportive of the draft  
23          order.  I think it's important to initiate the  
24          process to identify technologies to close the  
25          gap.  I think it's important to identify actions

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2           to pursue zero emissions by 2040 target. I think  
3           we should have -- be doing it, you know, in -- in  
4           a accelerated fashion. I think it -- we need to  
5           look very strongly and -- and get under the hood  
6           on the issues with reliability. I also think  
7           that when we get input from stakeholders, we need  
8           to have an understanding of the weight it bears  
9           depending on who is giving it to us.

10                           For example, if there are  
11           technical aspects in there, we need to rely on  
12           the technical experts. If there are reliability  
13           issues ladened in there, we need to rely on the  
14           reliability experts like the I.S.O. and the  
15           reliability council. And it has a higher  
16           concentration, it has a higher weight, right? So  
17           we have to be able to not just say well,  
18           everybody likes it or everybody doesn't, right,  
19           because we got bombarded.

20                           I do believe that the order has  
21           for the -- for maybe some of the stuff in there,  
22           for the first time, clearly expressly identifies  
23           that we are realizing that the challenges of  
24           getting to where we need to be, that the -- the  
25           false narrative around that, I do think we need

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2 to get under the hood a little bit.

3 Administration has already admitted that there  
4 are huge costs in some aspects of our clean  
5 energy plans based on the C.L.C.P.A., but we do  
6 have to get under the hood more on all of that.

7 It does not mean that then we are  
8 doing that to derail. It actually means that we  
9 are showing that we are credible in what we're  
10 doing to be good stewards of -- of the folks that  
11 we regulate and good stewards of rate-payer  
12 dollars as we move forward. And so we need to  
13 look at that and -- and -- and make sure we're  
14 okay with that.

15 I also do want to say that the  
16 other things that are outside of this is, seems  
17 like a lot of people have forgotten that the  
18 energy -- the State Energy Planning Board does  
19 actually have to do something with the final  
20 scoping plan and the State energy plan -- the,  
21 the new version of the State energy plan needs to  
22 be done.

23 But it needs to be done, not just  
24 in a quick, yeah, all good, here you go, and slap  
25 it on. It needs to follow the same transparent

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2           and orderly process and under -- under the energy  
3           law, also the different studies and applications  
4           that need to be done as well.  And that's  
5           something that will be informative for us as a  
6           Commission.  So I thank you very much.

7                   CHAIR CHRISTIAN:  Thank you,  
8           Commissioner.  Commissioner Alesi?

9                   COMMISSIONER ALESI:  Thank you,  
10          Mr. Chair.  Rather than just adopt a new clean  
11          energy standard tier, I think it makes perfect  
12          sense to seek input from stakeholders to define  
13          the moving target of zero emissions.  My comments  
14          are brief, but I think that goes to the target of  
15          what this does.  And I think it's good work.  
16          Thank you.

17                   CHAIR CHRISTIAN:  Thank you,  
18          Commissioner.  Commissioner Edwards?

19                   COMMISSIONER EDWARDS:  Thank you.  
20          I have no questions.  I will be supporting this  
21          item.

22                   CHAIR CHRISTIAN:  Thank you,  
23          Commissioner.  Commissioner Howard?

24                   COMMISSIONER HOWARD:  Yeah, I -- I  
25          have a couple questions, brief ones.  Because

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2           we're saying some -- one of these resources,  
3           potential resources that are needed is zero  
4           emission, that does not presume that it would be  
5           renewable, correct? At this stage in -- in the  
6           process, let's put it that way.

7                   MR. GUNDLACH:    So one of the  
8           competing priorities that informs this order is  
9           the need to comply with statutory language, which  
10          includes the term zero emissions and the term  
11          renewable. So sorting out how those two overlap  
12          will be one of the tasks.

13                   COMMISSIONER HOWARD:   Well, and to  
14          the extent that the scoping plan says we need to  
15          find something that just doesn't exist yet, you  
16          know, at the first blun -- blun when this came,  
17          you know, I -- and I -- I do thank everybody  
18          who's worked on this and edited it to its final  
19          version today, because it -- it -- it did have a  
20          little bit of the search for Captain Kirk sort of  
21          air about it. Meaning we got to find some  
22          technology somewhere that does something that  
23          meets the statutory requirement. And that I  
24          believe that this is processed that's outlined  
25          here, is much more reality-based.

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2 And again, I think to sort of echo  
3 Commissioner Burman's comment, this is the entity  
4 that needs to be the reality-based decision  
5 maker. It doesn't necessarily seem to be  
6 emerging from other State agencies or  
7 authorities, but again, it's our job to say what  
8 -- what -- what can work and what can't work.  
9 The other question is, this order doesn't  
10 presuppose that every technology that may come up  
11 in a technical conference is worth pursuing,  
12 correct?

13 MR. GUNDLACH: Correct.

14 COMMISSIONER HOWARD: And the  
15 reason I say that is because, you know, since the  
16 original initiating order in 2015, know what we  
17 found out? All this stuff takes a lot longer  
18 than we anticipate; a lot longer. In some cases,  
19 decade plus, you know, and that is with, you  
20 know, well-established technologies. So, you  
21 know, this is, you know, really critical.

22 One of the questions I also have  
23 is, will there be some particular focus on  
24 locational requirements? Because these devices  
25 might be in the right pla -- right technology,

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2 but maybe in the wrong place to enhance system  
3 reliability.

4 MR. GUNDLACH: I think the short  
5 answer is yes. The way in which a zero-emissions  
6 requirement interacts with the reliability needs  
7 of different NYISO regions in the state will  
8 certainly cause there to be, I guess you could  
9 say, different needs or potentially different  
10 needs --.

11 COMMISSIONER HOWARD: So in other  
12 words, what maybe applicable in Zone A may not  
13 work in Zone J-ish, meaning that --.

14 MR. GUNDLACH: Potentially.  
15 Though it, I mean, it's funny you should mention  
16 Zone A. If you look at NYISO's '21 to 2040  
17 report, it actually highlights that, what NYISO  
18 refers to as defers, the -- their -- their term  
19 for zero-emissions dispatchable resources. They  
20 identify a need in Zone A as well as Zone J.

21 COMMISSIONER HOWARD: I got it.

22 MR. GUNDLACH: So within the  
23 State, you're going to have diverse reliability  
24 needs in light of what exists now and what is  
25 projected for 2040.

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2 COMMISSIONER HOWARD: Thank you.

3 Well, first of all, one of the most important  
4 things of this order, I think will be expedition.  
5 If this goes on and on, and on, we're just  
6 waiting for, you know, that new great idea to pop  
7 up or advocates or, or stakeholders who say but  
8 just wait. It's right around the corner. This  
9 is a really good something. I think that's crazy  
10 because we have to deal with what technologies  
11 are literally available today. Because if we  
12 don't do that, we are going to miss our  
13 timetables because these things take so long to  
14 develop.

15 And I would be very loath if we  
16 came back with a recommendation, let's be the  
17 first in a nation to buy this. That would  
18 be -- we have a bad history of that in New York.  
19 And let's try not to do that this time. But  
20 again, I think within 12 months, something that  
21 comes back with a preliminary report is -- is --  
22 is like a, I think, a generous amount of time  
23 because I don't think, I personally don't think  
24 there are that many new exotic ideas out there.  
25 And the sooner we get a catalog of them, and as

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2           Commissioner Burman pointed out, somebody's going  
3           to like some and somebody's going to like -- hate  
4           them.

5                   So again, you know -- so I, again,  
6           I would be very, very cautious as well as being  
7           expeditious. So throwing things that don't seem  
8           particularly reasonable early on, throwing them  
9           out the window would be, well, we'd be all be  
10          well served, but again, I'll be supporting this.  
11          And really, it's all gets down to how good a job  
12          we do in terms of soliciting comments and -- and  
13          -- and -- and writing something up that -- that  
14          we can share.

15                   And just to that end, part of this  
16          may be what the world thinks exists in terms of  
17          technology, it -- it's just not right there now.  
18          So, you know, much of the C.L.C.P.A. was based on  
19          real good hopes and dreams, and well-intentioned,  
20          but not necessarily implementable. So again,  
21          that's -- that's my comment. Thank you.

22                   CHAIR CHRISTIAN: Thank you,  
23          Commissioner. Commissioner Valesky?

24                   COMMISSIONER VALESKY: Thank you,  
25          Mr. Chair. Justin and -- and team, thank you for

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2     bringing this forward for our consideration. I  
3     think it's really, really important. I've spoken  
4     certainly on more than one occasion from this  
5     dais about reliability. And as we march along,  
6     as the calendar moves forward towards 70 by 30  
7     and, and zero by -- by 40, that becomes more and  
8     more important. So I think this is really,  
9     really important that we're taking this up today.

10                   And in fact, if someone were to  
11     ask me, what is the Commission doing about  
12     reliability, there's a lot of ways that that  
13     question could be answered. I think I probably  
14     would say well, first and foremost, go read case  
15     number 15-E-0302. And oh, by the way, read it  
16     quickly, because the timeline issue that  
17     Commissioner Howard raised, I think is really  
18     important.

19                   The date in the order for comments  
20     to -- to come back in terms of feedback from  
21     those questions is July 17th, which interestingly  
22     is -- is right around the time that we'll hear  
23     that, we'll receive the NYISO report at the end  
24     of June. So I think that that will be very  
25     helpful. That timeline will work well. And then

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2           the technical conference, I believe 120 days, no  
3           later than 120 days from today, which would be by  
4           mid-September at the latest.

5                   So those who are interested in  
6           participating, get right to it, and I think we  
7           could very well hopefully see something further  
8           as soon as by the end of this calendar year for  
9           our further consideration. So thank you again.  
10          This is a very important item, and I, I'm pleased  
11          to support it.

12                   CHAIR CHRISTIAN: Thank you,  
13          Commissioner. And Commissioner Maggiore?

14                   COMMISSIONER MAGGIORE: Thank you.  
15          I don't have any questions or additional comments  
16          other than that I look forward to seeing,  
17          assuming this item passes, I'm looking forward to  
18          seeing the comments that come back as a result.  
19          And I might have more to say based on an action  
20          that comes from that. But I have nothing else to  
21          say or ask about this particular item. I do plan  
22          to support it.

23                   CHAIR CHRISTIAN: Thank you,  
24          Commissioner. So I'll now do the call for vote.  
25          My vote is in favor of the recommendation to

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2 initiate the process regarding the zero-emissions  
3 targets as discussed. Commissioner Burman, how  
4 do you vote?

5 COMMISSIONER BURMAN: Yes.

6 CHAIR CHRISTIAN: Commissioner  
7 Alesi?

8 COMMISSIONER ALESI: Yes.

9 CHAIR CHRISTIAN: Commissioner  
10 Edwards?

11 COMMISSIONER EDWARDS: Yes.

12 CHAIR CHRISTIAN: Commissioner  
13 Howard?

14 COMMISSIONER HOWARD: Yes.

15 CHAIR CHRISTIAN: Commissioner  
16 Valesky?

17 COMMISSIONER VALESKY: Yes.

18 CHAIR CHRISTIAN: Commissioner  
19 Maggiore?

20 COMMISSIONER MAGGOIRE: Yes.

21 CHAIR CHRISTIAN: Thank you. The  
22 item is approved and the recommendations are  
23 adopted. Thank you, Commissioners. Thank you,  
24 Justin.

25 We'll now move to the second item

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2           for discussion today.  Item 302 Case 23-E-0199 as  
3           it relates to the report on electric system  
4           preparations for the upcoming summer.  It'll be  
5           presented to us today by Michael Tushaj and  
6           Andrew Timbrook.  In addition to them, we'll have  
7           Tammy Mitchell, Leka Gjonaj, and Paul Darmetko  
8           available for questions.  Mike, please begin.

9                   MR. TUSHAJ:  Tech team, could you  
10           please 10 min -- 10 seconds.  Thank you.  Good  
11           morning, Chair, Commissioners.  My name is  
12           Michael Tushaj.  I'm a utility engineering  
13           specialist in the electric safety and reliability  
14           section of the Office of Energy System Planning  
15           and Performance.  Today, we will be briefing you  
16           on the State's electric transmission and  
17           distribution system, summer preparedness for the  
18           upcoming 2023 summer season.

19                   You can progress to slide three.  
20           Thank you.  So each spring staff conducts its  
21           annual review of the electric system and  
22           utilities preparedness to meet peak summer  
23           operating conditions for New York.  This review  
24           focuses on the electric system reliability and is  
25           part of our normal course of business at the

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2 department and is a high-priority review.

3 Peak summer operating conditions  
4 are often when the electric system can be most  
5 stressed, and we look to each of the utilities  
6 and the NYISO for assurances that we are well  
7 prepared to meet New York customer needs for the  
8 upcoming season. This review consists of an  
9 assessment of the NYISO's projected demand  
10 forecast and supply resource availability, and  
11 additionally, staff issues its annual summer  
12 prepared -- preparedness review to each of the  
13 utilities and reviews all responses, as well as  
14 conducts interviews with each utility to discuss  
15 planned and completed system reinforcement's,  
16 spare equipment inventories, and to confirm that  
17 they will be able to reliably meet customer  
18 demands for the upcoming summer period.

19 Through these surveys and  
20 interviews we find that each utility has  
21 completed or will complete all major planned  
22 reinforcements, inspections, and repairs prior to  
23 the start of the summer operating season, and  
24 will have adequate spare equipment on hand to  
25 meet unforeseen circumstances or system events.

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2 Based on staff's review and  
3 assessment of the utility data, meetings with  
4 each of the individual utilities in the NYISO, we  
5 find that the State's electric transmission and  
6 distribution systems are prepared to reliably  
7 meet forecast 2023 summer electric demands.

8 Next slide please. Thank you.

9 Now we'll take a look at the forecasted load  
10 compared to available supply resources for the  
11 upcoming summer. This chart shows the historic  
12 actuals and forecasted statewide peak demand as  
13 projected by the NYISO. The blue line on the  
14 right shows the 2023 peak load forecast over the  
15 next 10 years. The summer's peak load forecast  
16 is consistent with what we've seen over the past  
17 several -- several years. The NYISO's baseline  
18 forecast projection of approximately 32,048  
19 megawatts for the '23 summer season.

20 Looking out over the next 10  
21 years, the peak load forecast remains relatively  
22 flat and begins to rise in the latter years as  
23 increases in electrification and projected load  
24 from existing and future large-load projects  
25 interconnecting to the transmission system are

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2            realized, which is an offset in part by the  
3            positive effects of the State's energy efficiency  
4            programs and to underlying forecast econometric  
5            growth rates.

6                                Next slide please.  Thank you.  
7            Corresponding to the previous graph, this chart  
8            shows the accumulative forecast impacts of the  
9            contribution of energy efficiency and distributed  
10           gener -- generation towards reducing said peak  
11           demands.  The blue bar represents the forecasted  
12           energy efficiency impacts, whereas the red  
13           represents the impacts associated with  
14           distributed generation.  By the year 2- -- by the  
15           year 2033, the combined effect of these programs  
16           is projected to help lower the peak demand by  
17           approximately 6.3 gigawatts.

18                               Next slide, please.  Thanks.  This  
19           slide highlights the expected available resource  
20           capability for 2023.  Installed generating  
21           capacity for the 2023 totals is approximately  
22           36,990 megawatts, a decrease of approximately 430  
23           megawatts from the 2022 numbers.  This decrease  
24           in generating capacity can primarily be  
25           attributed to small generator deactivations and

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2 or deratings to some fossil generators.

3 Combining the installed generation  
4 capacity with the projected demand response and  
5 special-case resources as well as net firm  
6 purchase imports, provides New York with a total  
7 of approximately 41,148 megawatts worth of  
8 capacity resources for the 2023 summer period.  
9 That's approximately 467 megawatts increased from  
10 the previous year. The 467 megawatt increase in  
11 net firm purchase imports from 2022 is simply the  
12 market's way of economically procuring the  
13 necessary capacity needed to reliably serve the  
14 forecast peak load in New York.

15 Next slide, please. Thank you.

16 The New York State Reliability Council has set  
17 the 2023 to 2024 installed reserve margin at 20  
18 percent above the forecasted load, excuse me,  
19 above the forecasted peak demand. This 20  
20 percent installed reserve requirement translates  
21 to approximately 6,410 megawatts of minimum  
22 requirement above the forecasted peak demand for  
23 a total installed capacity of approximately  
24 38,458 megawatts.

25 As mentioned previously, the total

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2           available capacity for 2023 is approximately  
3           41,148 megawatts, which is 2,690 megawatts above  
4           the minimum required. This equates to an actual  
5           installed reserves of approximately 28.4 percent  
6           above the forecasted peak for 2023, providing  
7           further cushion to serve the peak load beyond the  
8           20 percent margin required by the New York State  
9           Reliability Council. To further help curb --  
10          curb peak energy system demands, each of the  
11          utilities have load relief programs in place  
12          which customers are compensated for providing  
13          load reductions when called upon.

14                                Currently, there's approximately  
15          1,150 megawatts enrolled in these programs for  
16          the 2023 season to further facilitate peak demand  
17          reductions during the summer's hottest days.  
18          Additionally, the NYISO and each utility have  
19          operating procedures in place to further mitigate  
20          any unforeseen reliability issues. These  
21          emergency operating procedures include, and are  
22          not limited to, emergency demand response  
23          programs, voltage reductions, voluntary  
24          industrial curtailments, and emergency purchases  
25          -- emergency purchases among others.

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2 The NYISO projects that  
3 approximately 3,160 megawatts will be available  
4 under these emergency operating procedures if  
5 needed for the summer period, which provides a  
6 further cushion to serve load above the -- the  
7 28.4 percent actual I.R.M., installed --  
8 installed reserve margin.

9 Now this concludes my portion of  
10 the presentation. Given all the information that  
11 we've presented here, staff believes that the  
12 electric system is adequately prepared to  
13 reliably meet New York customers' needs for the  
14 summer of 2023. And I'll now turn it over to my  
15 colleague Andrew Timbrook to discuss the  
16 projected summer pricing outlook. Thank you.

17 MR. TIMBROOK: Thank you, Michael.  
18 Good morning, Chair Christian, and Commissioners.  
19 My name is Andy Timbrook and I'm a Utility  
20 Engineering Specialist in the Office of Rates and  
21 Tariffs. Could we have the next slide, please?  
22 Thanks.

23 In this portion of the  
24 presentation, I'll be providing a summary of how  
25 the utilities have performed at reducing electric

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2           supply price volatility for their full-service  
3           residential customers. This will include an  
4           overview of the utilities' residential electric  
5           supply portfolio composition for this coming  
6           summer, a comparison of this summer's energy  
7           futures to last summer's futures and actual  
8           prices, the capacity price changes as compared to  
9           summer 2022. And lastly, I will present the  
10          Statewide estimated supply bill impacts for this  
11          upcoming summer as compared to the last several  
12          years for full-service residential electric  
13          customers using projected utility supply bill  
14          estimates that include utilities hedging plans.

15                    Before I begin, I will reiterate  
16          the electric market prices are dependent on  
17          present market conditions and the utilities under  
18          Commission jurisdiction have no control over the  
19          market price.

20                    The cost of electricity is  
21          determined largely by the energy and capacity  
22          markets administered by the NYISO. However, the  
23          utilities do have the ability to mitigate the  
24          month-to-month volatility of end-use supply  
25          prices for their mass-market customers through

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2 hedging and their supply rate mechanisms. The  
3 end-use full-service mass-market residential  
4 supply rate mechanisms do have some flexibility  
5 to the ability to mitigate large reconciliations  
6 caused by actual market price changes, a practice  
7 that utilities have utilized more frequently in  
8 the last several years.

9 My presentation will focus on  
10 measuring how the utilities have performed at  
11 that task -- task historically, and what steps  
12 the utilities have taken to manage any market  
13 price volatility that may occur this upcoming  
14 summer.

15 Next slide. This graph shows the  
16 result of the utilities' electric supply price  
17 volatility mitigation efforts dating back to  
18 December of 2008. The red line is the average  
19 New York I.S.O. market price volatility, the blue  
20 line is the volatility of the utilities'  
21 residential electric supply portfolios. Each  
22 point in the line represents the volatility over  
23 a 12-month period as measured by the coefficient  
24 of variation.

25 As you can see from the graph, the

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2           utilities' electric supply portfolio has  
3           consistently experienced less volatility as  
4           compared to the market.  The high points on the  
5           graph show various points over the past 10 years  
6           where market price volatility spiked.  During  
7           those times, the utilities' portfolios generally  
8           experienced significantly less volatility.  This  
9           performance is attributable to the hedging  
10          practices that the utilities employ to smooth the  
11          unpredictability of market prices.

12                   As previously mentioned, the  
13          utilities through their supply rate mechanisms,  
14          each have the ability to, and have, at various  
15          points, flexed a large reconciliation of prior  
16          period under or over recoveries of supply costs  
17          over multiple months to mitigate the impact of  
18          unpredictable market price swings that would've  
19          caused high price volatility for their full-  
20          service mass-market residential customers.  
21          Overall, as compared to the market price  
22          volatility, the statewide portfolio should be  
23          expected to continue to experience less  
24          volatility going forward.

25                   Next slide.  This chart shows the

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2           elements of the composite residential electric  
3           supply portfolio for this summer across all  
4           investor-owned utilities.  As shown, about 53  
5           percent of the portfolio consists of fixed-price  
6           contracts.  Of those, the majority are financial  
7           in nature.  The fixed portion of the portfolio  
8           also includes newer physical contracts, older  
9           legacy contracts, and a small amount of the  
10          utilities' own generation with fixed fuel cost as  
11          well as NYPA contracts.  The balance of the  
12          portfolio is predominantly made up of market  
13          purchases, followed by relatively small amounts  
14          of utilities' own generation with variable fuel  
15          costs and index contracts that are primarily  
16          indexed to natural gas.

17                   Next slide.  This chart shows this  
18          upcoming summer's expected average energy market  
19          prices based on its futures, last summer's  
20          futures, and last summer's actual prices for New  
21          York City, the Hudson Valley, and Western New  
22          York or New York I.S.O. zones J., G., and A.  
23          respectively.

24                   Last summer's expected energy  
25          market prices that we reported to you in May are

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2 shown in green. Last summer's actual market  
3 prices are shown in blue and this summer's  
4 expected market prices are shown in red. As you  
5 can see, this summer's expected prices are lower  
6 than the future's prices from this time last year  
7 by approximately 30 to 40 percent, and lower than  
8 the actual prices from last year by over 50  
9 percent.

10 Last summer, the actual prices  
11 ended up between 36 and 48 percent higher than  
12 what was expected going into the summer period,  
13 which was primarily due to rising natural gas  
14 prices, which continues to be the predominant  
15 fuel determining energy market prices.

16 This summer, gas prices have come  
17 down, which has also reduced expected energy  
18 market prices. I would like to note, however,  
19 that actual prices will likely vary from futures  
20 due to a variety of factors including weather,  
21 economic conditions, and demand on the system.

22 Next slide. This next slide shows  
23 what last year's summer strip auction capacity  
24 prices were and what this upcoming summer's  
25 prices are. As you can see, there's projected to

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2           be very little change in price with the exception  
3           of the New York City capacity zone.    The main  
4           driver of this price increase is a retirement of  
5           several smaller peaker units in the New York City  
6           capacity zone, as well as a slightly higher peak  
7           load forecast in New York City which is slated to  
8           increase by 333 megawatts.

9                   Next slide.    So this slide shows  
10           additional years of historic capacity prices for  
11           the two capacity zones that impact the New York  
12           City area.    As you can see by the graph, the  
13           summer's capacity prices for these zones are  
14           within the range of historic prices dating back  
15           to 2014.

16                   Next slide.    This last slide in my  
17           portion of the presentation provides a bit of  
18           context for how the expected change in market  
19           prices could impact the electric supply portion  
20           of customer bills.    This chart shows an estimate  
21           of the supply portion of a typical residential  
22           monthly bill as a result of the year-to-year  
23           changes in the load-weighted, full-service, mass-  
24           market residential commodity prices.

25                   For the chart, we consider a

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2           typical residential customer to use 600 kilowatt  
3           hours per month, which is close to the Statewide  
4           average, but can vary by utility.  The summer  
5           month bill estimate for this upcoming summer,  
6           cumulatively for June through September is  
7           expected to be about 3 percent lower than last  
8           summer on a Statewide average basis.  This slight  
9           decrease in the 2023 bill estimate as compared to  
10          2022 reflects the expected changes in market  
11          prices as well as the impact from the utilities  
12          hedging programs.

13                        I should note that depending on  
14          where a customer is located in the State, what  
15          utility they are served by, their actual use,  
16          actual market prices, their summer commodity bill  
17          will vary from what's shown here and could be  
18          higher or lower than last summer.  As of now, it  
19          is expected that customers in the Con Edison New  
20          York City area may see increased supply costs  
21          this summer as compared to last due primarily to  
22          the increased capacity costs we showed on the  
23          previous slides.  In most other parts of the  
24          State, it is expected that supply costs will be  
25          lower due to expected lower energy market prices.

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2 So to conclude, the utilities have  
3 continued to perform well at reducing the month-  
4 to-month price volatility as compared to the  
5 market volatility, and have maintained  
6 approximately a 53 percent fixed-price hedge  
7 level for this summer on a Statewide average  
8 basis, which should mitigate any significant and  
9 unexpected price spikes should they occur.

10 Further, we continue to  
11 communicate with utilities and monitor their  
12 full-service, mass-market customer supply price  
13 mechanisms and consider any adjustments as needed  
14 to improve volatility mitigation efforts. Those  
15 efforts resulted in a recent change to Con  
16 Edison's supply price mechanism as approved by  
17 this commission in May 2022.

18 So that concludes our  
19 presentation. We are available for any questions  
20 that you may have. Thank you.

21 CHAIR CHRISTIAN: Thank you,  
22 Andrew, and thank you Michael. And Michael, I  
23 know this was your first time. Want to  
24 acknowledge you did a great job.

25 MR. TUSHAJ: Thank you. I

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2 appreciate that.

3 CHAIR CHRISTIAN: No problem. I,  
4 I do have one question for you before we move on.  
5 Would you mind going back one slide? Okay,  
6 great. So this is the slide showing the change  
7 in capacity prices over several years. Is that  
8 right?

9 MR. TIMBROOK: Yes, that's  
10 correct.

11 CHAIR CHRISTIAN: Okay. And is  
12 this in any way adjusted to take into account the  
13 effects of inflation?

14 MR. TIMBROOK: No, it is not.

15 CHAIR CHRISTIAN: This is not  
16 adjusted. Okay. I just wanted to make that  
17 clear. So one could argue that though the price  
18 is higher this year, it's not entirely out of  
19 line and with the previous high prices, and may  
20 actually be lower when adjusted for inflation  
21 when compared to those prices?

22 MR. TIMBROOK: Yes, I agree.

23 CHAIR CHRISTIAN: Okay, thank you.  
24 All right. Well, I, I appreciate the  
25 presentation. It's good to see that we're well

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2 positioned to handle what's coming at us this  
3 summer with a fairly hefty reserve margin. I  
4 know the variability is always weather.

5 So one question I -- I would like  
6 to follow up with in just hypothetical, under  
7 what conditions do you think it possible where  
8 the reserve margin could erode to the point where  
9 we would need to activate those emergency  
10 resources you mentioned earlier? That -- that  
11 three gigawatts and I think the additional one-  
12 gigawatt demand response, is that something you  
13 could talk to a little bit?

14 MR. TUSHAJ: So besides, I'll just  
15 say besides unexpected warmer than weather  
16 conditions for longer periods than we had an  
17 anticipated is an obvious, could be an obvious  
18 stressor to that. Another would be unforeseen  
19 outages of generator outage -- outages, I would  
20 say. I'm not sure, I could defer to -- to Leka  
21 if you have anything else that you could think of  
22 that would push it past that 28.4 percent margin.  
23 I'm not sure about past that though.

24 MR. GJONAJ: No, I think that's,  
25 that would sum it up. You know, unusually high

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2 demands, you know, major generating assets not  
3 being available, that would -- those are the two  
4 basic drivers there.

5 CHAIR CHRISTIAN: Got you. Thank  
6 you for that. Okay, I'll move on to Commissioner  
7 Burman. Do you have comments?

8 COMMISSIONER BURMAN: Thank you.  
9 This was helpful. Kind of looking at this, I --  
10 I do want to point out NERC yesterday released  
11 their summer reliability assessment and  
12 identified risks of energy shortfalls during  
13 periods of extreme demand.

14 At least my sort of take on it, or  
15 looking at it is, New York doesn't fall in the  
16 emergency issues based on the I.S.O.'s assessment  
17 of having adequate capacity margins and operating  
18 procedures that can handle normal issues that  
19 arise. Obviously, there's things that come up  
20 extreme that may change the dynamic, but do you  
21 want to comment on NERC's summer reliability  
22 assessment?

23 MR. GJONAJ: Commissioner, I -- I  
24 didn't actually have a chance to read through  
25 that yet, but I -- I did -- I did hear that New

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2           York is not, you know, one of those red-flagged  
3           areas for the summer. So that was -- that was  
4           always -- that's always good news. And I think  
5           as Michael mentioned and noted that we're in good  
6           shape if -- if -- where we stand today to meet  
7           this summer's peak demands based on available  
8           capacity, capacity, transmission system,  
9           distribution system, it appears that we're in  
10          good shape today.

11                   COMMISSIONER BURMAN: Right. And  
12          I do just want to point out even though, you  
13          know, at least my read on it, the NERC summer  
14          assessment, you know, didn't have us in the red  
15          zone, it does have other regions in the red zone,  
16          and that's something for us to keep in mind  
17          because we are dependent on things that might  
18          happen outside of our I.S.O. And so to the  
19          extent that, you know, looking at it and -- and  
20          obviously the, I think NERC's real area of  
21          concern was the U.S. West having an elevated risk  
22          because of regional heat events that increase  
23          demand and strain transmissions. But we have our  
24          own challenges that we also need to sort of look  
25          at, you know, out there.

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2 The other thing that I saw, and  
3 again, I didn't, is really from a sort of a  
4 layman's term, is that NERC identified non-  
5 weather related reliability risks that I think we  
6 also have to sort of take into account. Supply  
7 chain issues and that, you know, really will  
8 challenge our folks in terms of maintenance and  
9 summer preparedness issues because of the supply  
10 chain and, you know, will delay some resource  
11 additions and we have to take that into account.  
12 Do you have any thoughts on that?

13 MR. GJONAJ: Yeah, we do. I think  
14 Michael mentioned earlier that we surveyed  
15 utilities and one of the things we survey is  
16 actually their spare equipment and they keep a  
17 pretty good log, pretty good -- the spare  
18 equipment inventory is in good shape. But they  
19 did -- they did inform us that going forward,  
20 ordering newer stuff is, is simply going to take  
21 longer to obtain and more expensive. But for  
22 this coming summer in the short term, they --  
23 they seem to be well stocked, so to speak.

24 COMMISSIONER BURMAN: Right, okay.  
25 Thanks. I know that, I know that impacts Kevin

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2           Wisely's group as well in terms of extreme  
3           weather and emergency response issues that come  
4           up.  And I -- I did see that FERC staff issued  
5           their summer reliability assessment as we were in  
6           session and I believe that that comes out.  And,  
7           and my understanding is, is that they do have,  
8           within a week or two, an opportunity for states  
9           to, you know, work with FERC in terms of what it  
10          means and what it may mean for engagement with,  
11          you know, our utilities and the I.S.O.  So I look  
12          forward to being a part of that.  Okay.  Thank  
13          you.

14                               CHAIR CHRISTIAN:  Thank you,  
15          Commissioner.  Commissioner Alesi?

16                               COMMISSIONER ALESI:  Thank you,  
17          Chair.  I guess it goes without saying that a lot  
18          of talent and hard work goes into producing this.  
19          Thank you, and I suppose we should enjoy it while  
20          we can.

21                               CHAIR CHRISTIAN:  Commissioner  
22          Edwards?

23                               COMMISSIONER EDWARDS:  No  
24          questions.  Thank you.

25                               CHAIR CHRISTIAN:  Commissioner

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2 Howard?

3 COMMISSIONER HOWARD: Yeah, I -- I  
4 just have one question and just maybe that goes  
5 along with the observation. Just sort of explain  
6 to me, New York has maybe the highest reserve  
7 margin requirements of the 50 states and we've  
8 been well served by that over time. And -- and  
9 as it relates to the capacity auction increases,  
10 you know, I'm not asking you to look into the  
11 future, because we'll get there soon enough, but  
12 again, just explain why we historically have such  
13 a higher reserve margin than the rest of the  
14 country.

15 Because it's not free, and  
16 particularly as we see it, when there are  
17 reductions in, you know, physical units  
18 available, you see that in the capacity auction.  
19 So if you could just -- just explain why we, why  
20 we do it and why we pay more.

21 MR. GJONAJ: I'll -- I'll -- I'll  
22 try to answer that question. I'll be honest you,  
23 I'm not familiar with all 50 states' installed  
24 reserve margins, but New York State's reserve  
25 margin has varied in the last 20 years from like

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2           say 15.5 percent to like 22 percent at times.  
3           It's a complicated process that the New York  
4           State Reliability Council uses to develop that  
5           install reserve margins based on a host of  
6           factors at the time.  And that's the minimum that  
7           they see fit to -- to meet reli -- to meet  
8           minimum reliability criteria.

9                   So I can't speak to the other  
10           states what they're doing.  I know Texas has a  
11           very unusual method.  I'm not going to even try  
12           to opine on that, but -- and it's typically much  
13           lower, I know than New York's, but regardless.

14                   COMMISSIONER HOWARD:  And, and  
15           going forward, you know, you -- we believe  
16           cumulatively that that high level of margin will  
17           need to be maintained in perpetuity.

18                   MR. GJONAJ:  I don't know if I  
19           want to characterize the high level of margin.  
20           It means the margin -- .

21                   COMMISSIONER HOWARD:  Well,  
22           high -- excuse me, our historic levels of reserve  
23           margin need to be maintained, in the future.

24                   MR. GJONAJ:  I think as a  
25           sufficient and a reli -- I'm sorry, installed

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2           reserve margin will need to be maintained in the  
3           future.  It -- it is going to vary as we go  
4           through time differing on, depending on system  
5           conditions and resources and all of that.  I'm  
6           not -- I can't predict what it would be, but it's  
7           evaluated every year in a very -- in a very  
8           rigorous manner.  So, and the New York State  
9           D.P.S. staff is part of that, and of course  
10          there's a whole host of stakeholders involved in  
11          as well.

12                            COMMISSIONER HOWARD:  Anyway, but  
13          thank you.  I hope if we're here next year, the  
14          news is just as good.

15                            MR. GJONAJ:  We hope so, too.

16                            CHAIR CHRISTIAN:  Thank you,  
17          Commissioner.  Commissioner Valesky?

18                            COMMISSIONER VALESKY:  Thank you  
19          both for your report.  I have no questions.

20                            CHAIR CHRISTIAN:  Thank you,  
21          Commissioner.  Commissioner Maggiore?

22                            COMMISSIONER MAGGIORE:  Hi, thank  
23          you.  The way I perceive this report is that  
24          we're not expecting to have a big problem this  
25          summer, which I think is good news.  So sort of a

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2 case of not a lot of news is good news.

3 As you were presenting, there was  
4 one question that occurred to me that I think is  
5 a quick one. The actual price of natural gas was  
6 higher last year than was predicted beforehand,  
7 and we're expecting it to be lower this year.  
8 What -- what happened that led to the higher cost  
9 and why do we expect that whatever that was does  
10 not repeat again?

11 MR. DARMETKO: Hi, Commissioner,  
12 this is Paul Darmetko. I think a lot of what  
13 happened last year was, you know, global supply  
14 need -- increased significantly, I'll say most  
15 likely due to the war in Ukraine and what's going  
16 on over there overseas. You know, I think there  
17 was less gas production last year where that has  
18 ramped up again this year to -- to meet, you  
19 know, global supply needs. So I think it -- it -  
20 - it will most likely be less of a concern this  
21 year hopefully. Does that answer your question?

22 COMMISSIONER MAGGIORE: Yes.  
23 Thank you. Thank you very much. Other than  
24 that, I don't have any additional questions.  
25 Thank you very much.

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2 CHAIR CHRISTIAN: Thank you,  
3 Commissioner. And with that, I'll bring us to  
4 a -- oh, we don't need to vote on an item for  
5 discussion, do we? All right. Thank you very  
6 much, everyone. Thank you, Mike. Thank you,  
7 Andrew. Paul, Leka, thank you.

8 Okay. And with that, we're now  
9 going to move on to the consent agenda. Do any  
10 Commissioners wish to comment on or recuse from  
11 voting on any of the items on today's consent  
12 agenda? I'll begin with Commissioner Burman.

13 COMMISSIONER BURMAN: Item 369. I  
14 am concurring.

15 CHAIR CHRISTIAN: Thank you.  
16 Commissioner Alesi?

17 COMMISSIONER ALESI: No questions  
18 or comments. I'll be supporting.

19 CHAIR CHRISTIAN: Thank you.  
20 Commissioner Edwards?

21 COMMISSIONER EDWARDS: I will be  
22 supporting all items with the exception of 370  
23 and 375, I am recusing.

24 CHAIR CHRISTIAN: Thank you.  
25 Commissioner Howard?

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2 COMMISSIONER HOWARD: I'll be  
3 supporting the agenda with the exception of 370  
4 and 375, where I will be a no, consistent with my  
5 previous votes.

6 CHAIR CHRISTIAN: Thank you.  
7 Commissioner Valesky?

8 COMMISSIONER VALESKY: No  
9 questions or comments on any of the items.

10 CHAIR CHRISTIAN: And Commissioner  
11 Maggiore?

12 COMMISSIONER MAGGIORE: I have no  
13 comments. I will support the entire consent  
14 agenda.

15 CHAIR CHRISTIAN: Thank you very  
16 much. So now we'll do a call for a vote. My  
17 vote is in favor of the recommendations on the  
18 consent agenda. Commissioner Burman, how do you  
19 vote?

20 COMMISSIONER BURMAN: Yes, with  
21 the exception of 369, I concur.

22 CHAIR CHRISTIAN: Thank you.  
23 Commissioner Alesi?

24 COMMISSIONER ALESI: Yes, on all  
25 items.

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2 CHAIR CHRISTIAN: Thank you.

3 Commissioner Edwards?

4 COMMISSIONER EDWARDS: Yes, on all  
5 items with the exception of 370, 375.

6 CHAIR CHRISTIAN: Right. Thank  
7 you. Commissioner Howard?

8 COMMISSIONER HOWARD: Yes, on all  
9 items with the exception of 370 and 375 where I'm  
10 a no.

11 CHAIR CHRISTIAN: Thank you.

12 Commissioner Valesky?

13 COMMISSIONER VALESKY: Yes, on all  
14 items.

15 CHAIR CHRISTIAN: Thank you. And  
16 Commissioner Maggiore?

17 COMMISSIONER MAGGIORE: Yes, on  
18 all items.

19 CHAIR CHRISTIAN: Excellent. we  
20 have sufficient votes. The items are approved  
21 and the recommendations are adopted. Thank you,  
22 everyone. Madam Secretary, is there anything  
23 further to come before us today?

24 SECRETARY PHILLIPS: There's  
25 nothing further today.

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2 CHAIR CHRISTIAN: Thank you very  
3 much. Before I adjourn, I can see everybody's  
4 getting ready to go, given the discussion on  
5 reliability that we've been having that's been  
6 permeating the conversation. I think it might be  
7 helpful at some point in the not too distant  
8 future for us to have a discussion and  
9 presentation from staff on the various actions  
10 we've taken and their potential impact on  
11 reliability. So be on the lookout for that at  
12 some point in the near future. I'll work with  
13 staff to put that together. All right. Thank  
14 you everyone. I adjourn.

15 (The meeting adjourned at 12:02  
16 p.m.)

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2 STATE OF NEW YORK

3 I, MONIQUE HINES, do hereby certify that the foregoing was  
4 reported by me, in the cause, at the time and place, as  
5 stated in the caption hereto, at Page 1 hereof; that the  
6 foregoing typewritten transcription consisting of pages 1  
7 through 73, is a true record of all proceedings had at the  
8 hearing.

9 IN WITNESS WHEREOF, I have hereunto  
10 subscribed my name, this the 22nd day of May, 2023.

11

12

13 MONIQUE HINES, Reporter

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